

## REMARKS

Claims 1-9 and 17-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,707,357 (“Mikhail”). Claims 10-11, 13, 17, 19 and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 2,720,881 (“Jones”). Claims 10-11, 13, 17, 19 and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 7,435,236 (“Weaver”). Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being rendered obvious in view of U.S. Publication 2004/0186444 (“Daly”).

Claims 1, 10, 12, 17-18 and 20-21 have been amended to further clarify the invention. Claims 2, 5-6 and 9 have been canceled.

### **Claim Rejections Under 35 U.S.C. § 102(b) and 102(e)**

In accordance with the Board decision, Applicants have amended independent claims 1, 10, 17 and 20-21 to further clarify the invention.

Regarding independent claims 1, 10, 17 and 20-21, it is submitted that Mikhail, Jones nor Weaver anticipate the currently pending claims. “A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described in a single prior art reference.” See MPEP § 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In accordance with the Board Decision, Applicants have amended the claims to further clarify the invention. The independent claims have been amended to recite, in part, “a substantially planar flow control membrane...wherein the first slit extends along a portion of a curve having a first radius of curvature and the second slit extends along a portion of a curve in which the first slit extends, wherein the first and second slits are spaced from one another by a distance sufficient to prevent contact between edges of the first and second slits when they are open.”

Applicants believe that no where in the cited references are the above mentioned claim elements disclosed.

Mikhail fails to disclose a substantially planar flow membrane, as the Board Decision points out. Jones also fails to disclose a substantially planar flow membrane, merely alluding to various other geometries that may or may not work with the intended invention disclosed in Jones.

Because all of the limitations of the independent claims are not found in the cited references, the same holds true for the claims that depend therefrom.

From the foregoing, the Examiner's rejections under 35 U.S.C. § 102(b) and 102(e) of the currently pending claims are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw these rejections.

#### **Claim Rejections Under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1-21 under 35 U.S.C. § 103(a) as being obvious over Daly. With this amendment, independent claims 1, 10, 17 and 20-21 have been amended to further clarify the invention.

As discussed above, the independent claims have been amended to recite, in part, "a substantially planar flow control membrane...wherein the first slit extends along a portion of a curve having a first radius of curvature and the second slit extends along a portion of a curve in which the first slit extends, wherein the first and second slits are spaced from one another by a distance sufficient to prevent contact between edges of the first and second slits when they are open."

It is respectfully submitted that Daly does not disclose each and every claim limitation. As a result, all of the limitations of the claims are not found in the publication cited by the Examiner, and therefore a prima facie case of obviousness has not been set forth for the currently pending claims. Because all of the limitations of the independent claims are not found in the cited references, the same holds true for the claims that depend therefrom.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 103(a) of the claims are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw this rejection.

### CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is respectfully requested.


In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would contact the undersigned attorney by telephone at (202) 373-6000 so that prosecution of the application may be expedited.

The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4047 (7061812001).

Respectfully submitted,

Dated: June 24, 2010

By: \_\_\_\_\_

  
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